

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

ROBERT ANDERSON,)
Plaintiff,) No. CV 08-869-HU
)
v.) FINDINGS AND
() RECOMMENDATION
VA HOSPITAL et al.)
Defendants.)

)

Robert Anderson
6135 NE Simpson Street, Unit 2
Portland, Oregon 97218
Pro se

Karin J. Immergut
United States Attorney
Ronald K. Silver
Assistant United States Attorney
United States Attorney's Office
District of Oregon
1000 S.W. Third Avenue, Suite 600
Portland, Oregon 97204
Attorneys for defendant

HUBEL, Magistrate Judge:

Plaintiff Robert Anderson brought this action pro se asserting
several claims sounding in tort. On October 17, 2008, defendants

FINDINGS AND RECOMMENDATION Page 1

1 filed a motion to dismiss the amended complaint (doc. # 32). The
2 court construed the motion to dismiss as a motion for summary
3 judgment, and on November 18, 2008, entered a summary judgment
4 advice order, extending the time for Mr. Anderson to respond to the
5 defendants' motion. (Doc. # 43).

6 Mr. Anderson did not file a response to the motion for summary
7 judgment, but on January 6, 2009, filed a motion to dismiss all
8 claims without prejudice. (Doc. # 45). The defendants do not oppose
9 Mr. Anderson's motion to dismiss.

10 I recommend that Mr. Anderson's motion to dismiss (doc. # 45)
11 be GRANTED, that this action be dismissed without prejudice, and
12 that defendants' motion for summary judgment (doc. # 32) be DENIED
13 as moot.

14 **Scheduling Order**

15 The above Findings and Recommendation will be referred to a
16 United States District Judge for review. Objections, if any, are
17 due February 66, 2009. If no objections are filed, review of the
18 Findings and Recommendation will go under advisement on that date.
19 If objections are filed, a response to the objections is due
20 February 20, 1009, and the court's review of the Findings and
21 Recommendation will go under advisement with the District Judge on
22 that date.

23 Dated this 22nd day of January, 2009.

24 /s/ Dennis J. Hubel

25 _____
26 Dennis James Hubel
27 United States Magistrate Judge
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